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SUBJECT: Khmer Rouge Tribunal: The Trial of S-21
Interrogation Center Head Kaing Guek Eav, Week 13

REF: PHNOM PENH 497 AND PREVIOUS

¶1. (SBU) SUMMARY: Embassy staff routinely observes the proceedings of the trial against the notorious Khmer Rouge torture center head, widely known as Duch, at the Extraordinary Chambers in the Courts of Cambodia (ECCC) (Reftel). This report summarizes the thirteenth week of activities inside the court at the Khmer Rouge Tribunal. More technical accounts of the proceedings can be found at: www.csdccambodia.org; www.kidccambodia.org and at <http://socrates.berkeley.edu/~warcrime/>. END SUMMARY.

¶2. (SBU) There seemed to be increased focus on the observers this week, with the ECCC representatives taking extra time to explain the court process to the audience. Translation also improved, with observers noting smooth translation and few instances of confusion. The majority of the week was dedicated to questioning witnesses who were staff members at S-21. The Trial Chamber again this week interrupted testimony in order to hold private discussions on the issue of self-incrimination. As a result, Judge Nil Nonn repeated his instruction to the defense to cease warning witnesses that they risk prosecution (the witness is provided with his or her rights prior to testimony, and the judges reinforce this as well). Testimony was also suspended when both the prosecution and civil party lawyers made requests to the court regarding procedures for questioning witnesses. The prosecution requested that the court not question Duch in the middle of witness testimony because such a process would allow for the accused to intimidate the witness. The civil party lawyers again brought up the issue of time (civil party groups are given 20 minutes each to question the witness), requesting that they be allowed to submit additional questions to the judges should they run out of time. Decisions on both requests will be issued next week.

¶3. (SBU) Herewith are observation notes for the week beginning July 20, 2009:

Monday, July 20: There were approximately 400 people observing today's trial. Most were Cambodian and university-aged, with only 15-20 people from the Khmer Rouge era. The audience was generally attentive and passive. Some males were overheard commenting on testimony. The proceedings ran relatively smoothly and lawyers adhered to the time limits. However, there were some repetitive questions to which the judges objected.

Today's witness was Him Huy, a former prison guard at S-21. The line of questioning sought to determine his knowledge of the alleged crimes, the nature of the crimes, his participation, and from whom orders originated. Him Huy indicated that Duch made all of the decisions and that the entire staff obeyed him without question, stating that one mistake would have cost him his life. When given the opportunity to respond, Duch accepted responsibility by stating that all of Him Huy's crimes resulted from following Duch's orders.

During witness testimony, Duch was very respectful and focused, staring intently at the witness as he spoke, with occasional long glances into the audience of students. The only sign of visible reaction during the proceedings occurred when the witness wept while

professing his present-day fear of Duch. Duch nodded while staring at the witness as he spoke, and the witness subsequently drooped his shoulders and directed his stare downwards.

Tuesday, July 21: There were approximately 300 observers, mainly Cambodian, in court today. The audience remained quiet throughout the proceedings, although there was an audible reaction when the witness described the killing of an infant. The translators did a fairly good job and were able to keep up with the proceedings. The Khmer judges asked repetitive questions throughout the session.

Prak Khan, a former interrogator at S-21 who has given at least four interviews over the years, provided testimony which described Duch as a willing teacher of torture. Mr. Khan stated that in staff study sessions, Duch detailed non-lethal torture methods of force feeding of human excrement, whips, electric shocks, needles under fingers, and partial suffocation. At one point during the questioning the French judge asked Duch to stand up and then asked the witness if Duch is the man he took orders from at the prison. After a long pause the man very quickly looked at Duch and said yes before returning his eyes to the floor, just as they had been the entire time. During the 8 hours of questioning, the witness had not looked at Duch once, until that incident. It was obvious to this observer that Duch still elicited strong and fearful emotions from the witness.

Rodley